

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MAXIMO HERNANDEZ, JR.,

Plaintiff,

vs.

Civ. No. 02-186 JP/WWD ACE

UNITED STATES DEPARTMENT OF THE  
AIR FORCE,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendant's Motion to Vacate Initial Scheduling Order and Order Briefing Schedule filed June 25, 2002. The motion is well taken. Ordinarily, lawsuits based upon Freedom of Information Act requests are not subject to pretrial case management procedures, including the filing of Initial Pretrial Reports. Accordingly, the Initial Scheduling Order heretofore entered herein should be vacated and set aside. Defendant has suggested a schedule for filing a summary judgment motion; however, I do not see the necessity of setting such a schedule at this time. Defendant may certainly file a summary judgment motion when they choose to, and the applicable procedural rules would determine when a response and reply would be timely.

**WHEREFORE,**

**IT IS ORDERED** that the Initial Scheduling Order (docket no. 7) entered in this cause on May 13, 2002, be, and it is hereby, VACATED and SET ASIDE.

  
UNITED STATES MAGISTRATE JUDGE